

UNITED STATES DISTRICT COURT

District of Nevada

UNITED STATES OF AMERICA

v.

LEON BENZER

Date of Original Judgment: 8/6/2015
(Or Date of Last Amended Judgment)

Reason for Amendment:

- ☒ Correction of Sentence on Remand (18 U.S.C. 3742(f)(1) and (2))
☐ Reduction of Sentence for Changed Circumstances (Fed. R. Crim. P. 35(b))
☐ Correction of Sentence by Sentencing Court (Fed. R. Crim. P. 35(a))
☐ Correction of Sentence for Clerical Mistake (Fed. R. Crim. P. 36)

AMENDED JUDGMENT IN A CRIMINAL CASE

Case Number: 2:13-CR-0174-JCM-GWF

USM Number: 47521-048

WENDI OVERMYER, AFPD

Defendant's Attorney

- ☐ Modification of Supervision Conditions (18 U.S.C. §§ 3563(c) or 3583(e))
☐ Modification of Imposed Term of Imprisonment for Extraordinary and Compelling Reasons (18 U.S.C. § 3582(c)(1))
☐ Modification of Imposed Term of Imprisonment for Retroactive Amendment(s) to the Sentencing Guidelines (18 U.S.C. § 3582(c)(2))
☐ Direct Motion to District Court Pursuant ☐ 28 U.S.C. § 2255 or ☐ 18 U.S.C. § 3559(c)(7)
☐ Modification of Restitution Order (18 U.S.C. § 3664)

THE DEFENDANT:

- ☒ pleaded guilty to count(s) 1 and 2 of the Indictment
☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.
☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

| Title & Section | Nature of Offense | Offense Ended | Count |
|-----------------|------------------------|---------------|-------|
| 26 USC§7201 | Tax Evasion | 2/2009 | 1 |
| 18 USC§2 | Employment Tax Evasion | 2/2009 | 2 |
| | | | |

The defendant is sentenced as provided in pages 2 through 11 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on count(s) _____
☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

8/17/2018

Date of Imposition of Judgment

Signature of Judge

JAMES C. MAHAN, U.S. DISTRICT JUDGE

Name and Title of Judge

August 23, 2018

Date

DEFENDANT: LEON BENZER
CASE NUMBER: 2:13-CR-0174-JCM-GWF

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of :

* **(151) months per count for Case No. 2:13-cr-0018, counts 1 to 17; and (60) months per count Case No. 2:13-cr-0174, counts 1 and 2 to be served concurrently.**

☒ The court makes the following recommendations to the Bureau of Prisons:

1. As close to Las Vegas, Nevada as possible.
2. Residential Drug Program.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

- ☐ at _____ ☐ a.m. ☐ p.m. on _____ .
- ☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

- ☐ before 2 p.m. on _____ .
- ☐ as notified by the United States Marshal.
- ☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____ with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: LEON BENZER

CASE NUMBER: 2:13-CR-0174-JCM-GWF

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of:

- (5) years for case no. 2:13-cr-0018, counts 1 to 12; (3) years for Case No. 2:13-cr-0018, counts 13 to 17; and
(3) years for Case No. 2:13-cr-0174, counts 1 and 2, to run concurrently.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court, not to exceed 104 tests annually.
☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☒ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: LEON BENZER

CASE NUMBER: 2:13-CR-0174-JCM-GWF

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: LEON BENZER

CASE NUMBER: 2:13-CR-0174-JCM-GWF

SPECIAL CONDITIONS OF SUPERVISION

1. Access to Financial Information – You must provide the probation officer access to any requested financial information and authorize the release of any financial information. The probation office will share financial information with the U.S. Attorney's Office.
2. Debt Obligations – You must not incur new credit charges, or open additional lines of credit without the approval of the probation officer.
3. Employment Restriction – You must not engage in an occupation, business, or profession, or volunteer activity that would require or enable you to conduct any business in any real estate, property management, or Home Owners' Association related business, without the prior approval of the probation officer.
4. No Contact – You must not communicate, or otherwise interact, with co-conspirators, either directly or through someone else, without first obtaining the permission of the probation office.
5. Community Service – You must complete 100 hours of community service within the term of supervised release. The probation officer will supervise the participation in the program by approving the program (agency, location, frequency of participation, etc.). You must provide written verification of completed hours to the probation officer.
6. Search and Seizure – You must submit your person, property, house, residence, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), other electronic communications or data storage devices or media, or office, to a search conducted by a United States Probation Officer. Failure to submit to a search may be grounds for revocation of release. You must warn any other occupants that the premises may be subject to searches pursuant to this condition.

The probation officer may conduct a search under this condition only when reasonable suspicion exists that you have violated a condition of supervision and that the areas to be searched contain evidence of this violation. Any search must be conducted at a reasonable time and in a reasonable manner.

Note: A written statement of the conditions of release was provided to the Defendant by the Probation Officer in open court at the time of sentencing.

DEFENDANT: LEON BENZER

CASE NUMBER: 2:13-CR-0174-JCM-GWF

CRIMINAL MONETARY PENALTIES

The defendant must pay the following total criminal monetary penalties under the schedule of payments on Sheet 6.

| | <u>Assessment</u> | <u>JVTA Assessment*</u> | <u>Fine</u> | <u>Restitution</u> |
|---------------|-------------------|-------------------------|-------------|--------------------|
| TOTALS | \$ 200.00 | \$ 0.00 | \$ 0.00 | \$ 12,228,913.40 |

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

| <u>Name of Payee</u> | <u>Total Loss**</u> | <u>Restitution Ordered</u> | <u>Priority or Percentage</u> |
|---|---------------------|----------------------------|-------------------------------|
| "See 2nd amended final omnibus restitution order attached" | \$12,228,913.40 | | |
| | | | |
| | | | |
| | | | |
| | | | |

| | | |
|---------------|------------------|---------|
| TOTALS | \$ 12,228,913.40 | \$ 0.00 |
|---------------|------------------|---------|

☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest, and it is ordered that:

☐ the interest requirement is waived for ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: LEON BENZER
CASE NUMBER: 2:13-CR-0174-JCM-GWF

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

- A ☒ Lump sum payment of \$ 200.00 due immediately, balance due
- ☐ not later than _____, or
☐ in accordance with ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:

Schedule of payments – 10% of any income earned during incarceration and/or gross income while on supervision, subject to adjustment by the court based on ability to pay.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☒ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

"SEE SECOND AMENDED FINAL OMNIBUS RESTITUTION ORDER ATTACHED"

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) JVT A assessment, (8) penalties, and (9) costs, including cost of prosecution and court costs.

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 -oOo-

4 UNITED STATES OF AMERICA,)

5 Plaintiff,)

6 v.)

7 LEON BENZER, *et al.*)

8 Defendants.)

CASE NO. 2:13-cr-00018-JCM-GWF

9)
10 UNITED STATES OF AMERICA,)

11 Plaintiff,)

12 v.)

13 ROSALIO ALCANTAR, *et al.*)

14 Defendants.)

CASE NO. 2:12-cr-00113-JCM-VCF

15)
16 UNITED STATES OF AMERICA,)

17 Plaintiff,)

18 v.)

19 MARY ANN WATTS,)

20 Defendant.)

CASE NO. 2:11-cr-00336-JCM-GWF

21 UNITED STATES OF AMERICA,)

22 Plaintiff,)

23 v.)

24 DEBORAH GENATO,)

25 Defendant.)
26)

CASE NO. 2:11-cr-00339-LDG-GWF

| | | | |
|---|---------------------------|---|-------------------------------------|
| 1 | UNITED STATES OF AMERICA, |) | |
| 2 | Plaintiff, |) | CASE NO. 2:14-cr-00010-JCM-VCF |
| 3 | v. |) | |
| 4 | BARRY LEVINSON, |) | SECOND AMENDED FINAL OMNIBUS |
| 5 | Defendant. |) | RESTITUTION ORDER |

Based on findings made during the sentencings of the individual defendants enumerated below, the Court hereby enters the following order regarding restitution in the above-captioned cases.

The following defendants are ordered to pay up to the following dollar amounts, jointly and severally, as restitution to the Vistana Homeowners' Association and the Park Avenue Homeowners' Association. Of restitution payments received, 99.8% shall be directed to the Vistana HOA, and 0.2% shall be directed to the Park Avenue HOA, as is commensurate with their share of the restitution awards.

| Defendant Name | Case Number | Restitution Amount (Joint and Several Liability) |
|----------------------------|-----------------------|---|
| Alcantar, Rosalio | 2:12-cr-00113-JCM-VCF | \$25,826.20 |
| Alvarez, Jose Luis | 2:13-cr-00018-JCM-GWF | \$184,200.84 |
| Alvarez-Rodriguez, Rudolfo | 2:13-cr-00018-JCM-GWF | \$119,585.81 |
| Anderson, Ricky | 2:13-cr-00018-JCM-GWF | \$41,642.49 |
| Benzer, Leon | 2:13-cr-00018-JCM-GWF | \$12,228,913.40 |
| Bolten, Robert | 2:12-cr-00113-JCM-VCF | \$135,932.36 |
| Brown, Glenn | 2:12-cr-00113-JCM-VCF | \$5,295.00 |
| Deluca, Michelle | 2:12-cr-00113-JCM-VCF | \$10,000.00 |
| Genato, Deborah | 2:11-cr-00339-LDG-GWF | \$30,000.00 |
| Gillespie, Edith | 2:13-cr-00018-JCM-GWF | \$85,780.00 |

| | | |
|-------------------|-----------------------|------------------------------|
| Gregory, Keith | 2:13-cr-00018-JCM-GWF | \$12,154,913.40 ¹ |
| Hawkins, Charles | 2:12-cr-00113-JCM-VCF | \$147,884.00 |
| Hindiyeh, Sami | 2:12-cr-00113-JCM-VCF | \$6,000.00 |
| Jones, Brian | 2:12-cr-00113-JCM-VCF | \$10,000.00 |
| Levinson, Barry | 2:14-cr-00010-JCM-VCF | \$12,228,913.40 ² |
| Limon, Maria | 2:13-cr-00018-JCM-GWF | \$24,000.00 |
| Mattingly, Morris | 2:12-cr-00113-JCM-VCF | \$190,471.03 |
| Watts, Mary Ann | 2:11-cr-00336-JCM-GWF | \$39,350.00 |
| Winkler, Jeanne | 2:12-cr-00113-JCM-GWF | \$47,000.00 |

These funds should be directed to the following:

- Vistana HOA: Attn: Richard Haskin, 7450 Arroyo Crossing Parkway, Suite 270, Las Vegas, NV 89113
- Park Avenue HOA: Park Avenue Homeowners Association, c/o FirstService Residential, 8290 Arville Street, Las Vegas, NV 89139

In addition, once Defendant Leon Benzer has satisfied his mandatory restitution to the above-listed HOAs (or other defendants have paid the \$12,228,913.40 he owes to those HOAs), Defendant Leon Benzer is hereby ordered to pay \$1,165,186.81 in restitution to the United States Treasury, pursuant to the restitution award in *United States v. Benzer*, Case No. 2:13-cr-174-KJD-CWH. These funds should be directed to: IRS-RACS, Attn: Mail Stop 6261, Restitution, 333 W. Pershing Ave., Kansas City, MO 64108.

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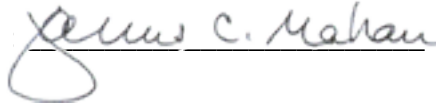
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¹ The Court originally ordered Defendant Gregory to pay \$12,604,913.40 in restitution. However, Defendant Gregory should have received a credit for the \$450,000 paid to Silver Lining Construction but ultimately recovered by the Vistana HOA, and his restitution amount is hereby reduced by that amount.

² The Court originally ordered Defendant Levinson to pay \$19,000,000 in restitution. However, given that Defendant Leon Benzer was ordered to pay \$12,228,913.40 in restitution and Leon Benzer was the leader of the conspiracy, Defendant Levinson's restitution award should not exceed Defendant Benzer's.

1 **IT IS SO ORDERED.**

2 Dated: August 18, 2015.

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4 A handwritten signature in blue ink, reading "James C. Mahan", is written over a horizontal line.

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6 United States District Judge
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